

6024/USSN 10/621,563
Group Art Unit 1761

REMARKS

Applicants have considered the July 14, 2004 official action. Claims 1-29 are pending in the application. Claims 1-4, 17-25, 28 and 29 are rejected. It is respectfully submitted that the claims are directed to patentable subject matter as set forth below and are now in condition for allowance.

Claims 5-16, 26 and 27 are objected to as being dependent upon a rejected base claim. Applicants respectfully acknowledge Examiner's statement that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, applicants respectfully submit that independent claims 1 and 24, from which these claims depend, are in condition for allowance for the reasons set forth hereafter and withdrawal of the objection is respectfully requested.

Claims 1-4, 17, 21, 23, 24, 28 and 29 are rejected under 35 U.S.C. § 102(b) as being anticipated by Burns (U.S. Patent No. 5,320,751). Applicants have amended independent claims 1 and 24 to clarify the claimed invention. Applicants respectfully traverse the rejection.

A rejection under 35 U.S.C. § 102(b) is only proper if the cited reference discloses each and every element of the claimed invention. For the reasons set forth hereafter, applicants respectfully submit that each and every element of independent claims 1 and 24 are not disclosed by Burns. The claims dependent thereon are similarly not disclosed by Burns.

Specifically, Burns discloses a magnet holder assembly for holding magnets on and around a fuel line to improve combustion of fuel in an engine supplied by the fuel line. The assembly consists of a rubber one-piece magnet casing having two integral casing halves 14 and 16 hinged together at hinge 18 and spring biased toward each other. A pair of facing axial semi-cylindrical grooves 20 and 22 are formed in the two casing halves, which in use embrace the periphery of the fuel line. A tie 30 encircles the exterior of the casing and is required to clamp the two halves of the casing on the fuel line.

Claim 1 calls for a device to magnetically treat beverages. The device comprises two semi-cylindrical halves, each half having a fastening end and a grasping end for opening and closing the device. A spring mechanism

connects the two semi-cylindrical halves. The device includes a plurality of magnets arranged in each of the semi-cylindrical halves. Burns does not disclose, among other things, a semi-cylindrical half having a grasping end for opening and closing the device. Accordingly, applicants respectfully submit that Burns does not disclose each and every element of the claimed invention, and applicants respectfully request that the Examiner reconsider and withdraw the Section 102(b) rejection of independent claim 1 and dependent claims 2-4, 17, 21 and 23.

Claim 24 claims a device to magnetically treat beverages. The device comprises two halves, each of which have a fastening end and a grasping end for opening and closing the device. A spring mechanism connects the two halves. A plurality of magnets is arranged in each of the halves. Similar to claim 1, Burns does disclose, among other things, a device to magnetically treat beverages comprising two halves, each of which have a grasping end for opening and closing the device. Accordingly, Burns does not disclose each and every element of the claimed invention and applicants respectfully request that the Examiner reconsider and withdraw the Section 102(b) rejection of independent

6024/USSN 10/621,563
Group Art Unit 1761

claim 24 and dependent claims 28 and 29.

Dependent claims 18-20, 22 and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Burns on the grounds that the claimed invention would have been obvious to one skilled in the art at the time of the invention. Applicants respectfully traverse the rejection.

As set forth above, Burns does not disclose a device to magnetically treat beverages having two semi-cylindrical halves, each of the halves having a grasping end for opening and closing the device. Further, there is no suggestion in Burns for modifying the device of Burns to include a grasping end for opening and closing the device as claimed in independent claim 1 and included in dependent claims 18-20, 22 and 25. Accordingly, applicants respectfully submit that Burns fails to disclose or suggest each and every element of the claimed invention. Applicants respectfully request that the Examiner reconsider and withdraw the rejection under 35 U.S.C. § 103.

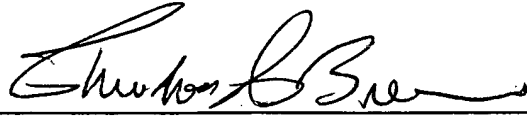
Reconsideration and allowance of the claims is respectfully urged.

6024/USSN 10/621,563
Group Art Unit 1761

Respectfully submitted,

ANDREW S. JANCZAK ET AL

By

A handwritten signature in dark ink, appearing to read 'Theodore A. Breiner', written over a horizontal line.

Theodore A. Breiner, Attorney
Registration No. 32,103
BREINER & BREINER, L.L.C.
115 North Henry Street
P.O. Box 19290
Alexandria, Virginia 22320-0290

Telephone: (703) 684-6885